IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FOURTEENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 19009 of 2004

Between:

Pisini Laxmana Rao, S/o Tata,
R/o Kosta Village, Ranasthalam Mandal,

Srikakulam District (SC No.1225)

..... PETITIONER

AND

1 Transmission Corporation of A.P.Limited,

(A.P.TRANSCO) rep.by its Chief Managing Director,
Vidyut Soudha, Khairatabad, Hyderabad
2 The Assistant Divisional Engineer (Electrical), Operation,

Eastern Power Distribution Company
of A.P.Ltd., Srikakulam, Srikakulam District

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ or Order or direction more particularly one in the nature of Writ of Mandamus declaring the provisional assessment notice in letter NO.ADE(O)/SKL/D.No.1014/04, dated 7-10-2004 of the 2nd

respondent as highly illegal, arbitrary, unjust and contrary to Section 126 of the Electricity Act, 2003 and consequently set aside the same

Counsel for the Petitioner: MR.D.V.NAGARJUNA BABU

Counsel for the Respondents: MR.KANAKAMEDALA RAVINDRA KUMAR

The Court made the following :

ORDER:

Petitioner seeks a writ of Mandamus declaring the impugned Provisional Assessment Notice No.ADE(O)/SKL/D.NO.1014/04, dated 07-10-2004 issued by the 2nd respondent as arbitrary and illegal and contrary to Section 126 of the Electricity Act, 2003 (for short 'the Act') and consequently set aside the same.

Petitioner states that he is running a small tea stall, in a mulgi in Kosta village, Ranasthalam Mandal Srikakulam District. He obtained L.T.Service Conection (commercial) from the erstwhile A.P.S.E.B., and has been paying the consumption charges in respect of the said service connection regularly. While so, the petitioner was served with the impugned notice dated 07-10-2004 stating that the premises in occupation of the petitioner was inspected on 04-10-2004 by the officials of the respondent-Corporation and during the inspection it was found that the consumer directly tapped the supply from nearby L.T. line for the purpose of his hotel and panshop, which prima-facie indicates that the petitioner is guilty of pilferage of energy. Accordingly the power supply to the petitioner's service connection was disconnected and he was informed that an inquiry will be made into the matter by the Superintendent Engineer, who will fix the

amount of loss sustained by the company. Further, he was informed that the value of the energy pilfered by the petitioner has been provisionally estimated at Rs.1,54,890/- and if he is desirous of obtaining restoration of supply pending enquiry, he may pay the said amount plus Supervision charges of Rs.150/- plus reconnection charges.

The learned counsel for the petitioner contends that the assessment made under the impugned notice is untenable in view of the provisions of the Electricity Act, 2003, which came into force with effect from 10-12-2003. He contends that the impugned action of demanding the provisionally estimated amount for restoration of power supply is not contemplated under the said Act.

It is to be noted that a Division Bench of this Court in Writ Appeal Nos.452 and 477 of 2004, while considering the scope of the provisions of the Electricity Act, 2003 held that under the Act there is no power, while issuing provisional assessment to forthwith stop or disconnect power supply or call upon to pay even part of the provisional assessment amount till final assessment is made.

In the circumstances, and following the ratio laid down by the Division Bench in the above case, I am of the view that the impugned notice cannot be sustained. Accordingly, the impugned Provisional Assessment Notice dated 07-10-2004 is set aside and it is left open to the Assessing Authority to make a final assessment in accordance with law after affording opportunity to the petitioner to submit his explanation.

Accordingly, the writ petition is disposed of at the admission stage with a further direction to the respondents to restore the power supply to the petitioner's service connection bearing No.1225, situated at Kosta Village, Ranasthalam Mandal, Srikakulam District, forthwith. No order as to costs.

14-10-2004

Note: Issue C.C in three days.

B/o.

Vs

To

1 The Chief Managing Director,

Transmission Corporation of A.P.Limited,

(A.P.TRANSCO),
Vidyut Soudha, Khairatabad, Hyderabad.

2 The Assistant Divisional Engineer (Electrical), Operation,

Eastern Power Distribution Company
of A.P.Ltd., Srikakulam, Srikakulam District

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